IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

In re Application of:	
Terry Vovan	
Serial No.: 10/645,893	Group Art Unit: 1761
Filed: August 18, 2003	Examiner: Viren A. Thakur
For: CAKE CONTAINER COVER-BASE CONNECTION	

REPLY TO EXAMINER'S ANSWER

Hon. Commissioner of Patents
Alexandria, VA 22313-1450

August 31, 2009
Los Angeles, CA 90024

This is a reply to the Examiner's Answer dated August 14, 2009 in the above application.

Claim 5 describes dimples (26, Fig. 2) formed in a resilient plastic sheet by radially outward deflection, where the sheet thickness is on the order of 0.020 inch. Each dimple is deflected radially (I, O in Fig. 6) when the dimple moves from one dimple receiving region (26A, Fig. 2) to another one (26B). The Examiner's answer points out that in Kalmanides his cover has parts (30, 33, 42 in his Fig. 9) formed by projections in his plastic cover. However, in Kalmanides his projections move over or under other parts rather than deflecting radially. Thus, in Fig. 9 of Kalmanides, when he turns his cover, his cover flange 30 moves under his locking ledge 40 until it hits a stop 41. This is different from applicant's dimple (26B in applicant's Fig. 6) that radially deflects walls of a dimple-receiving cavity (54) or restriction (62).

The Examiner (his page 6, beginning at line 4) cites Elwell for teaching a radial projection, but Elwell relies on his packing ring (25, his Fig. 2) to hold his cover closed, rather than on radial resilience of his container or closure.

The Examiner (his page 6) also cites Draenert for teaching a projection that slides in a channel. However, Draenert shows (his Fig. 1) pins 16 (col. 10, l. 32-36) that slide into a bayonet thread that appears to lie in a steel cylinder. His pin does not cause any radial deflection.

The Examiner says (on page 6 of his Answer in the last five lines) that Elwell and Draenert show outward projecting portions on the base and receiving portions on the cover. This is not relevant to the claimed invention. What is novel about claim 5 is that applicant's dimple and dimple receivers are formed in thin plastic sheets that deflect radially, not that there are parts that project radially.

Beginning in the last paragraph of page 9, the Examiner refers to protrusions (60, Fig. 26 of Kalmanides) for showing radial deflection. However, Kalmanides' protrusions do not involve radially outward deflection of a thin sheet that forms a cavity that receives a dimple. Kalmanides shows a shaped projection that does not form a cavity that receives anything.

The Examiner (his page 10) rejects our claim 18 which describes a transition (62 in our Fig. 6) between a chimney (52) and a dimple-receiving cavity

(54). The transition (62) forms a constriction that resists turning of the cover, by requiring radially outward (arrow O) deflection of the constriction.

The Examiner (beginning at last two lines of page 10) cites Reid for showing radial deflection because his boss 43 (his Fig. 4) passes over his locking bar 53. Reid does not show thin plastic sheeting that forms a dimple and a dimple-receiving region (applicant's Fig. 6) so the plastic sheeting can deflect perpendicular to the plane of the sheeting.

The Examiner (page 16, second paragraph) rejects claim 7, which depends from claim 6 (which depends from claim 5) and which describes a transition (62 in our Fig. 6) between a chimney (52) and a dimple-receiving cavity (54), of a base and cover each formed of a plastic sheet. The transition (62) forms a constriction in a vertical wall, that resists turning of the cover by requiring the vertical plastic sheet to bulge outward (O). The Examiner cites Reid, Silk, and Foster. Reid does not show a vertical plastic sheet, and his boss 43 (his Fig. 4) passing over his bar 53 of his glass bottle is not the same as deflection of a vertical plastic sheet. Silk (his Fig. 9, item 84) suggests rigid locking rather than deflection of a vertical plastic sheet. Foster shows (his Fig. 1) a sprayer cap 56 that threads onto the neck of a bottle 60, with neither part being a thin deformed plastic sheet that is radially deflected.

The Examiner also cites Podel which shows a cap that screws onto a bottle, with projecting members 10, 11 but without a dimple that moves between two dimple-receiving cavities.

In his "Response to Arguments" (his page 17) the Examiner counters applicant's statement that Kalmanides "does not use the resilience of his plastic sheets to urge a dimple radially". The Examiner refers to figure 26 of Kalmanides where triangles (ridges) 60 slide into a receiving section. His triangles are not radially deflected sheets.

Applicant has not countered each of the Examiner's responses on pages 17-28 regarding each of the other references, as this would be a repetition of the arguments given above.

Applicant notes that the Examiner's citation of 11 references against each of 2 independent claims, in his 29 page answer to applicant's 8 page appeal brief, can make it difficult to analyze the relevance of the references.

Respectfully submitted,

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